IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.23869 of 1995

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Dated: October 31, 2006

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Between:

Harish Rawat, S/o. Shri P.S. Rawat,
R/o.745, Sector 7, R.K. Puram,
New Delhi.

… Petitioner

And

The Govt. of A.P., rep. by its Secretary, Dept. of
Home, Secretariat, Hyderabad (A.P.), and others.

… Respondents

Order:

Petitioner, by this Writ Petition, seeks Mandamus to declare the action of the respondent-police in failing to investigate the case promptly on a complaint given by his wife as illegal and arbitrary and to direct the respondents to pay compensation of Rs.10,00,000/- for their dereliction of duty.

2. Facts of the case in brief are:

Petitioner, who joined in the Indian Army in the year 1979 and

working as Havaldar, VII Delhi Battalion, National Cadet Corps, worked as Havaldar in 9, Garhwal Rifles, Hyderabad, during the year 1993-94. He was residing at Civil Lines, Langar House, Hyderabad with his family consisting of his wife, Mrs. Geeta Rawat and his two minor sons, Pankaj Rawat and Neeraj Rawat. On 01-02-1994, petitioner's wife had given a complaint to the Police, Langar House stating that her two children were missing from 31-01-1994 from 3.00 P.M. onwards. The Police registered a case in Cr.No.9/94 and took up investigation. Subsequently, the case has been transferred to CBCID and later to CBI.

3. It is the case of the petitioner that their neighbours informed his wife that one Mr. Samiullah Khan was responsible for kidnapping their children. This Writ Petition was filed in the year 1995 stating that in spite of giving complaint, no action has been taken by the Police and they have not completed the investigation. The petitioner alleges negligence and dereliction of duty on the part of the Police officials and since their children were kidnapped and killed by the said suspect, the respondent-State is liable to pay compensation.

4. Respondents 1 to 3 have filed counter affidavit stating that after the petitioner's wife filed complaint, the same was registered as Cr.No.9/94 under the head 'boys missing' in Langar House Police Station. It is stated that the then Station House Officer, Langar House Police Station, expired 6 months ago and the then Sub-inspector of Police, Sri D. Raja has been transferred long back and he is now working as Inspector of Police, Tenali. After the case was registered, Sri D. Raja had taken up investigation. It is stated that thereafter the case was transferred to CBCID and later to CBI, which investigated into the matter. It is further stated that CBI has completed investigation

and filed its report before the competent court after service of notice on the complainant, Smt. Geeta Rawat, wife of the petitioner herein, on 21-02-1997, however, no objections were filed by her. It is further stated that when once the case has been transferred to CBI, the Police failing to investigate the case does not arise at all and it is for CBI to take necessary steps to complete investigation.

5. This court by order dated 10-10-2006 *suo motu* impleaded the Deputy Superintendent of Police, CBI/SPE/Hyderabad as Respondent No.4 in the Writ Petition.

6. Sri T. Niranjan Reddy, learned Standing Counsel appearing for CBI, has produced a copy of the final report dated 27-10-1994, which was the outcome of the investigation pursuant to the complaint filed by Mrs. Geeta Rawat.

7. Sri R. Subba Rao, learned counsel for the petitioner contends that though the two sons of the petitioner were kidnapped and murdered, Police have failed to investigate the case in proper perspective, more so, when one person by name Samiullah Khan was being suspected.

8. Initially, there was no complaint against any person. Even against the said Samiullah Khan, there is no specific motive alleged, except merely stating that there was some altercation between Samiullah Khan and some Army personnel residing in the locality. Even in the final report filed under Section 173, Cr.P.C., no motive could be established between the suspect and the complainant. Only one child witness by name Baby Deepa spoke about her witnessing the kidnapping, but she failed to identify the photographs of the deceased. The medical opinion obtained from All India Institute of

Medical Sciences establishes that the cause of death of the two sons of petitioner was due to Asphyxia, as a result of drowning. In the final report filed by CBI, it was concluded that the cause of death was apparently due to accidental drowning and it is not a case of kidnapping and murder as alleged.

9. After filing of the complaint, Police have registered a case and subsequently, in view of the complexity involved, the matter was entrusted to CBCID and later to CBI, which took up investigation and filed its report on 27-10-1994 itself. In the counter affidavit, it is stated that final report was filed by giving notice to the complainant, wife of the petitioner; however, no objections were raised by her. Hence, it cannot be said that there is lapse on the part of the respondents in investigating the case pursuant to the complaint given by the wife of the petitioner. As much as it has been clearly stated in the final report that it is a case of accidental drowning which resulted in the death of the sons of the petitioner, petitioner is not entitled for any compensation from the State as claimed by him.

10. The Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

JUSTICE R. SUBHASH REDDY.

October 31, 2006
MRR